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Nos. 468 and 470

In the Supreme Court of the United States

OCTOBER TERM, 1957

WILLIAM A. W. STEWART, PETITIONER,

v.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE

WILLIAM A. W. STEWART, PETITIONER,

v.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE RESPONDENT

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In the Supreme Court of the United States

OCTOBER TERM, 1931

No. 469

GEORGE L. SHEARER, PETITIONER

v.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE

No. 470

WILLIAM A. W. STEWART, PETITIONER

v.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE RESPONDENT

OPINIONS BELOW

These cases were consolidated for hearing before the Board of Tax Appeals and were disposed of in one opinion (No. 469, R. 10–12; No. 470, 10–12), which is reported in 18 B. T. A. 393. The cases

were heard together by the Circuit Court of Appeals, which also rendered but one opinion (No. 469, R. 21–28; No. 470, R. 21–28) reported in 52 F. (2d) 17.

JURISDICTION

The judgments of the Circuit Court of Appeals were entered July 24, 1931. (No. 469, R. 28–29; No. 470, R. 28–29.) Petitions for certiorari were filed October 19, 1931, and were granted November 30, 1931. Jurisdiction is conferred upon this Court by Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTION PRESENTED

The petitioners in 1925 filed their individual returns for the calendar year 1924 and reported thereon their distributive shares of the income from a partnership having a fiscal year ending April 30, 1924. Were they entitled by the provisions of Title XII of the Revenue Act of 1924 to receive a reduction of 25 per centum of the tax on that portion of their shares of partnership income which was taxable at 1923 rates under Section 207 (b) of the Revenue Act of 1924?

STATUTES INVOLVED

Revenue Act of 1924, c. 234, 43 Stat. 253, 261, 275, 352, 353, 354:

> SEC. 218. (a) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed.

SEC. 207. (a) If the taxpayer makes return for a period beginning in one calendar year (hereinafter in this subdivision called "first calendar year") and ending in the following calendar year (hereinafter in this subdivision called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then his tax under this title for the period ending during the second calendar year shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such

period falling within the second calendar year is of the entire period.

(b) If a fiscal year of a partnership begins in one calendar year and ends in another calendar year, and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then (1) the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiseal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year. In such cases the part of such income subject to the rates in effect for the most recent calendar year shall be added to the other income of the taxpayer subject to such rates and the resulting amount shall be placed in the lower brackets of the rate schedule applicable to such year, and the part of such income subject to the rates in effect for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to such year.

SEC. 1100. (a) The following parts of the Revenue Act of 1921 are repealed, to take effect (except as otherwise provided in this Act) upon the enactment of this Act, subject to the limitations provided in subdivisions (b) and (c):

Title II (called "Income Tax") as of January 1, 1924.

* * * * *

TITLE XII.—REDUCTION OF INCOME TAX PAYABLE IN 1924

SEC. 1200. (a) Any taxpayer making return, for the calendar year 1923, of the taxes imposed by Parts I and II of Title II of the Revenue Act of 1921 shall be entitled to an allowance by credit or refund of 25 per centum of the amount shown as the tax upon his return.

SEC. 1201. (a) Any taxpayer making return, for a period beginning in 1922 and ending in 1923, of the taxes imposed by Parts I and II of Title II of the Revenue Act of 1921, shall be entitled to an allowance by credit or refund of 25 per centum of the same proportion of his tax for such period (determined under the law applicable to the calendar year 1923 and at the rates for such year) which the portion of such period falling within the calendar year 1923 is of the entire period.

(b) Any taxpayer making return, for a period beginning in 1923 and ending in 1924, of the taxes imposed by Parts I and II of Title II of this Act, shall be entitled to an

allowance by credit or refund of 25 per centum of the same proportion of a tax for such period (determined under the law applicable to the calendar year 1923 and at the rates for such year) which the portion of such period falling within the calendar year 1923 is of the entire period.

STATEMENT

The facts in each case are the same with the exception of the amounts involved. They may be summarized as follows (No. 469, R. 10–11):

The petitioners made and filed their individual income-tax returns for the calendar year 1924. The partnership of Stewart & Shearer, whose members are the petitioners herein, made and filed a partnership return of income for the fiscal year ended April 30, 1924. The Commissioner determined the net income of petitioner Shearer for the calendar year 1924 to be $103,613.53, of which amount $67,462.38 represents that part of the net income of the partnership attributable to the year 1923. He further determined that the tax on the income attributable to 1924 was $3,071.67 and that the tax on the income attributable to 1923 was $27,-244.32. The Commissioner determined the net income of petitioner Stewart for the calendar year 1924 to be $91,165.35, of which amount $71,462.39 represents that part of the net income of the partnership attributable to the year 1923. He further determined that the tax on the income attributable

to 1924 was $688.43 and that the tax on the income attributable to 1923 was $23,732.92.

Each petitioner claimed the right to receive a reduction of 25% of his tax on that portion of the partnership income shown on his individual returns for the calendar year 1924, which was attributable to the year 1923. The claims were rejected by the Commissioner and his determination was sustained by the Board of Tax Appeals, which followed its earlier decisions beginning with *Appeal of Charles Colip*, 5 B. T. A. 123 (No. 469, R. 10–12; No. 470, R. 10–12), and by the Circuit Court of Appeals on review of the Board's decision (No. 469, R. 21–28; No. 470, R. 21–28).

SUMMARY OF ARGUMENT

Title XII of the Revenue Act of 1924 contains a comprehensive scheme for relieving all taxpayers, other than corporations, from a portion of taxes assessed upon income for 1923. Congress determined to allow a credit or refund of 25% to such taxpayers instead of reducing the rates applicable to 1923 income, because the Revenue Act of 1924 could not take effect in time to permit effective relief by reduction in rates. Congress used the taxpayers' basis of return as the determining factor in allowing the credit, and did not, in the case of calendar-year returns, base the credit upon the source of partnership income.

Section 1200 (a) of the Revenue Act of 1924 gave a 25% credit to taxpayers making returns

for the calendar year 1923, and Sections 1201 (a) and 1201 (b) gave a similar credit to taxpayers making returns on a fiscal-year basis. The petitioners were entitled to a credit upon their returns for 1923, and presumably claimed and received the full credit which Congress intended to extend to taxpayers in their situation. They now seek an additional credit, and their contention that they should have it is contrary to the Congressional purpose and the plain terms of the statute. An examination of the terms of the statute shows that no provision was made for taxpayers making return for the calendar year 1924, and petitioners can not receive the credit they claim.

The decision of the court below follows a long line of decisions of the Board of Tax Appeals, and a contrary decision by the Circuit Court of Appeals for the First Circuit, based upon a judicial revision of the terms of the statute, is clearly wrong.

There is no basis for a claim that the statute, as construed by the court below, is in violation of the Fifth Amendment.

ARGUMENT

Both of the petitioners made their returns on the calendar year basis for the year 1924 and were members of a partnership having a fiscal year ending April 30, 1924. Having elected to make their individual returns on the basis of the calendar year 1924 instead of on the same fiscal year basis as the partnership, they were required by Section 218 (a)

of the Revenue Act of 1924, *supra,* to report as income for the calendar year 1924 their proportionate shares of the partnership profits whether distributed or not for the whole of the fiscal year of the partnership ending within their taxable year. Under the statute such amounts constituted a part of each petitioner's taxable income for the calendar year 1924, although the partnership income was earned over a period embracing parts of two calendar years. The petitioners, accordingly, included in their returns their shares of partnership income for the partnership fiscal year running from May 1, 1923, to April 30, 1924.

The amount of tax to be paid by each petitioner for the calendar year 1924 is computed under Section 207 (b) of the Revenue Act of 1924, *supra.* The portion of the partnership income allocable to each year is found by taking the fractional part of the actual income of the partnership for its fiscal year equal to the proportion which the number of months in each year bears to twelve, the total number of months in the fiscal year. In computing each petitioner's normal tax the partnership income allocable to 1924 is subject to the rates of the Revenue Act of 1924 and that allocable to 1923 is subject to the rates of the Revenue Act of 1921. In computing the surtax the partnership income allocable to 1924, together with any individual income for the year, is placed in the lower brackets of the rate schedule applicable to the calendar year 1924, and the partnership income allocable to the year 1923 is placed

in the next higher brackets of the rate schedule applicable to the year 1923, contained in the Revenue Act of 1921.

Since the normal and surtax rates of the 1921 Act were somewhat higher than those of the 1924 Act, the computation results in a higher tax than that which would be payable at straight 1924 rates. The fact that under Section 207 (b) the petitioners' taxes are computed by reference to the rates of the two calendar years does not make the whole of the income from the partnership any the less income received or derived during the calendar year 1924. The tax resulting from the computation is the tax upon income for the calendar year 1924. The income is all that of the later year although the statute recognizes the source of part of the income in the earlier year in fixing the rates to be applied where they differ in the two years. Each petitioner's share is treated as an entirety received in a particular calendar year. Cf. *Shearer* v. *Commissioner*, 48 F. (2d) 552 (C. C. A. 2d).

In assessing the tax due from each of the petitioners under his return for the calendar year 1924 the Commissioner followed the method of computation which we have outlined and assessed a tax against each petitioner for the calendar year 1924. Petitioners sought a redetermination of their taxes because they contended that under the provisions of Title XII of the Revenue Act of 1924 they were entitled to a refund or credit of 25% of the tax which was based upon partnership income al-

located to the 1923 portion of the partnership's fiscal year.

Both the Board of Tax Appeals and the court below held that petitioners were not entitled to the credit or refund which they claim. We believe that the result reached was correct and that it was clearly required by the plain language of the statute.

THE PETITIONERS WERE NOT ENTITLED TO A DEDUCTION OF 25% OF ANY PART OF THE INCOME INCLUDED IN THEIR RETURN FOR THE CALENDAR YEAR 1924

Title XII of the Revenue Act of 1924 provides a comprehensive scheme for returning to taxpayers, other than corporations, 25% of the taxes paid or payable on taxable income for the year 1923. When these provisions were under consideration in Congress it appeared that the condition of the Treasury was such that the full payment of income taxes on taxable income for the year 1923 would not be required for the support of the Government.[1] It was realized, however, that before the Revenue Act of 1924 could be passed, returns for the year 1923 would be filed, and in many cases the taxes paid, at the rates provided in the prior Act of 1921. The purpose was to reduce these taxes by allowing the credits or refunds of 25% as provided in Sections 1200 (a), 1201 (a), and 1201 (b).

While the scheme of the statute, as set forth in these sections, was characterized in the debates

[1] The problem confronting Congress is fully disclosed by the legislative history, which we have summarized in the Appendix, *infra*.

as unscientific, it was considered as a rough-and-ready method of granting the desired relief. By giving credit against the taxes assessed at rates regarded as too high, instead of revising the rates, Congress adopted a practical solution of convenient and easy application. It dealt with the problem on the basis of the taxpayer's return, and in Section 1200 (a) provided for a 25% credit to taxpayers making returns for the calendar year 1923; and then, in Sections 1201 (a) and 1201 (b) it granted a similar credit to taxpayers making their returns upon a fiscal-year basis. In none of these clauses of the Act did it provide for any credit to taxpayers making returns for the calendar year 1924. Obviously there was to be but one deduction of 25% in the case of taxpayers making their returns upon a calendar-year basis, which is fully and completely covered by Section 1200 (a).

The scheme thus adopted was not only inclusive of all taxpayers except corporations but was necessarily exclusive of all deductions other than those specifically provided for in these three sections. The petitioners were obviously entitled to a deduction under Section 1200 (a), and presumably claimed a credit against the tax assessed upon their return for the calendar year 1923. They were not entitled to a credit under Section 1201 (a) or Section 1201 (b), because these sections are in terms applicable only to taxpayers making returns for fiscal years ending and beginning in 1923, upon the proportionate basis provided in these sections.

Keeping in mind the very simple and definite plan embodied in the statute, and the purpose which Congress had in view, it is quite impossible to sustain the contention that the petitioners, entitled as they were to a deduction of 25% of their taxes paid for the year 1923, are entitled to a further deduction of 25% of the taxes upon income returned for the calendar year 1924, which was partnership income attributable under Section 207 (b) to the year 1923. Section 207 (b) has no application to the credit provisions of Sections 1200 and 1201. It merely provides the method of applying the tax rates prevailing in different years to partnership income when the income of the partnership is determined upon a fiscal-year basis. Logically, it may be said, Congress might have provided for such a credit as the petitioners claim. But it did not do so. Choosing to base the credit allowance upon the taxpayer's return, it did not follow consistently the source of the income or the rate at which it was taxed, as a guide to the allowance of the credit.

Thus, a partner who made return of his taxable income for 1923 upon a calendar-year basis, and included therein partnership income determined upon a fiscal-year basis, would under Section 1200 (a) be entitled to a credit applied to income attributable under Section 207 (b) to the year 1922. (I. T. 2146, Cumulative Bulletin IV–1, January–June, 1925, p. 88.) It can not reasonably be contended that Congress intended to allow one who

was entitled to such a deduction to claim a further reduction upon income of the partnership returned for the calendar year 1924, and attributable under Section 207 (b) to the year 1923. Such contentions are destructive of the very scheme and plan definitely and clearly set forth in Title XII of the Act of 1924 for the allowance of credits and refunds. This is made abundantly clear by the language of Sections 1200 (a), 1201 (a), and 1201 (b).

Section 1200 (a) provides:

> SEC. 1200. (a) Any taxpayer making return, for the calendar year 1923, of the taxes imposed by Parts I and II of Title II of the Revenue Act of 1921 shall be entitled to an allowance by credit or refund of 25 per centum of the amount shown as the tax upon his return.

It is apparent that this provision does not cover petitioners, for it relates only to taxpayers making returns for the calendar year 1923. The petitioners' returns were for the calendar year 1924. Moreover, this section applies only to taxes imposed by Parts I and II of Title II of the Revenue Act of 1921. The Act of 1921 does not impose the taxes which the petitioners were required to pay for the calendar year 1924. Such taxes are imposed by the Revenue Act of 1924, and that Act alone, Title II of the Revenue Act of 1921 having been repealed as of January 1, 1924, by Section 1100 (a) of the Revenue Act of 1924, *supra*. The rates provided by the

Revenue Act of 1921 are made applicable to the portion of partnership income attributed to the part of the partnership fiscal year which elapsed in 1923 solely because of the provisions of 207 (b) of the Revenue Act of 1924. They did not resurrect the Revenue Act of 1921, but merely served to adopt the applicable schedule of tax rates in the repealed statute.

Section 1201 (a) of the Revenue Act of 1924 is clearly inapplicable to petitioners, because that provision is in terms limited to taxpayers making a return for a period beginning in 1922 and ending in 1923. Petitioners' returns were for the calendar year 1924, and this section is therefore not applicable to such returns.

Petitioners' principal contention is that Section 1201 (b) is applicable to their returns, and, therefore, that they should be allowed the credit therein provided. Section 1201 (b) is as follows:

> (b) Any taxpayer making return, for a period beginning in 1923 and ending in 1924, of the taxes imposed by Parts I and II of Title II of this Act, shall be entitled to an allowance by credit or refund of 25 per centum of the same proportion of a tax for such period (determined under the law applicable to the calendar year 1923 and at the rates for such year) which the portion of such period falling within the calendar year 1923 is of the entire period.

It is apparent that Section 1201 (b) likewise does not apply to the petitioners. This section is by

its terms limited to taxpayers making returns for a period beginning in 1923 and ending in 1924—that is to say, upon a fiscal-year basis. Its language can have no application to a taxpayer making return, for a calendar year, of income derived from a partnership, whether a portion of such income is attributable under Section 207 (b) to 1923 or not. This is the plain meaning of the language used. But the intent of Congress is further demonstrated by the fact that when the credit allowed under Section 1201 (b) is computed upon a taxpayer's fiscal-year return it will always equal exactly 25% of the tax attributable to 1923, since the credit under Section 1201 (b) is computed in exactly the same manner as the tax is computed under Section 207 (a) of the 1924 Act. But if attempt is made to apply the provisions of this section to a taxpayer making return for a calendar year, which includes partnership income determined upon a fiscal-year basis, the credit, as computed under Section 1201 (b) will not, except by chance, equal 25% of the tax paid under such return on the 1923 portion of partnership income, since the credit computed under 1201 (b) and the tax computed under 207 (b) are computed by entirely different methods. This phase of the problem is treated by the court below in its opinion. (R. 39–40.) Such results are incongruous and quite inconsistent with the simple scheme embodied in Sections 1200 (a), 1201 (a), and 1201 (b) and lead necessarily to the conclusion

that only confusion results from departing from the plain language of these sections.

It should also be noted that if 1200 (a) applies to this case, as we contend, these petitioners were entitled to take the deduction provided for in that section on their taxes for the calendar year 1923, and if their contentions now advanced are sustained, they will receive a deduction upon income attributable to partnership business during a period of twenty months. This is quite inconsistent with the plain intent of the statute, to allow only a credit against taxes assessed for a single year's income.

We find no escape from the conclusion that the petitioners' contentions in this case are inconsistent with the structure and purpose of the statute, and in contradiction of its express language.

The decision of the Board of Tax Appeals in this case follows a long line of decisions of the Board[2] holding that the credit and refund provisions of

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[2] See *Appeal of C. A. Weaver*, 5 B. T. A. 313; *Hoke* v. *Commissioner*, 5 B. T. A. 1247; *Morf* v. *Commissioner*, 6 B. T. A. 309; *McJunkin* v. *Commissioner*, 6 B. T. A. 425; *Behrends* v. *Commissioner*, 6 B. T. A. 524; *Schwartz* v. *Commissioner*, 7 B. T. A. 223; *Griesheimer* v. *Commissioner*, 7 B. T. A. 1225; *Steefel* v. *Commissioner*, 8 B. T. A. 1111; *McFetridge* v. *Commissioner*, 9 B. T. A. 759; *Gibb* v. *Commissioner*, 10 B. T. A. 1373; *Murphy* v. *Commissioner*, 12 B. T. A. 142; *Tighe* v. *Commissioner*, 12 B. T. A. 670; *McDowell* v. *Commissioner*, 16 B. T. A. 95; *Herdling* v. *Commissioner*, 16 B. T. A. 100; *Shannon* v. *Commissioner*, 19 B. T. A. 640, now on appeal (D. C. App.); *Westfeldt* v. *Commissioner*, 19 B. T. A. 1298, now on appeal (C. C. A. 5th).

the 1924 Act are not applicable to taxpayers making returns upon the basis of the calendar year 1924, and including income from partnerships having a fiscal year covering parts of the years 1923 and 1924. These decisions follow a well-reasoned opinion of the Board in *Appeal of Charles Colip,* 5 B. T. A. 123, which was specifically accepted by the court below.

The court below refused to follow the decision of the Circuit Court of Appeals for the First Circuit in *White* v. *Maddison,* 45 F. (2d) 335, where a different conclusion was reached. The District Court in that case had held that a return similar to petitioners' could be treated as a return for the calendar year 1923, and so receive the benefit of the credit provisions of Section 1200 (a) of the 1924 Act. The Circuit Court of Appeals reached the same conclusion for different reasons. In order to construe the statute as permitting the credit to the taxpayer involved, that court found it necessary to interpolate certain words which entirely changed the meaning of each of the sections in Title XII authorizing credit.

We believe that this departure from the plain language of the statute and this decision, based upon the statute as rewritten by the court, was clearly erroneous, for the court was not free to modify the plain terms of the statute under the guise of construction. *Crooks* v. *Harrelson,* 282 U. S. 55, 60–61.

Even if the statute had read as the court in *White* v. *Maddison, supra,* treated it as reading, the petitioners would not be entitled to the credit claimed. The court read into Section 1200 (a) and Section 1201 (a) and (b) the words "income accruing in," after the words "any taxpayer making returns, for." Income is not always returned for taxation in the year in which it is accrued. The petitioners in this case may have made returns on a cash disbursements and receipts basis, and it would then be immaterial how much income accrued in any particular year. While the income may have been earned by the partnership partly during 1923, under the provisions of Section 218 (a) of the 1924 Act, the petitioners, as individuals, are required to report such income as an entirety in the calendar year 1924 (unless they elect, with the approval of the Commissioner, to adopt the same fiscal year as the partnership, which they did not do here), and it is then that such income accrued to them for purposes of taxation. Section 1200 (a) clearly applies only to those taxpayers who made returns for the calendar year 1923, and the time when the income was earned by the partnership can not affect the application of the statute.

The petitioners contend that if the statute is so construed as to deny them a credit or refund, the provisions for credit or refund violate the Fifth Amendment. But the credit provisions do not levy a tax and deal only with taxes already paid or as-

sessed. They do not take from the petitioners any property. The petitioners, presumably, have already received the benefit of the credit upon their returns for 1923 and no constitutional provision requires that they should have more.

There is no basis for a contention that the statute contains an unreasonable distinction or discrimination, or that it is arbitrary or capricious. *Cf. Brushaber* v. *Union Pacific R. R.*, 240 U. S. 1, 24. All taxpayers similarly situated are treated alike. All individuals receive the benefit of tax reductions. The taxpayers on a calendar year basis, making return for the year 1923 (even though their returns include income of a partnership having a fiscal year extending from part of 1922 to 1923) receive the credit under Section 1200 (a), and taxpayers on a fiscal year basis receive that benefit under Section 1201 (a) or (b). The statute, as construed by the court below, has geographical uniformity, is reasonable in its operation, and the Fifth Amendment can not apply. *Billings* v. *United States,* 232 U. S. 261, 282; *Barclay & Co.* v. *Edwards,* 267 U. S. 442, 450; *Cooper* v. *United States,* 280 U. S. 409.

The petitioners argue that the statute, as construed by the court below, may be unconstitutional because there may be other taxpayers receiving income from partnerships formed after January 1, 1923, who could not receive the benefit of the credit under Section 1200 (a). It seems entirely clear,

that even as to such taxpayers, the statute would be valid, and in any event the petitioners do not appear to have been deprived of the benefits of Section 1200 (a) as applied to their returns for the calendar year 1923, and not being within the class on whose account they express this concern, they can not complain of the alleged failure to give relief to such class. See *Heald* v. *District of Columbia*, 259 U. S. 114, 123; *Hendrick* v. *Maryland*, 235 U. S. 610, 621; *Yazoo & Mississippi R. R.* v. *Jackson Vinegar Co.*, 226 U. S. 217, 219; *Hatch* v. *Reardon*, 204 U. S. 152, 160.

CONCLUSION

The decision of the court below was correct and should be affirmed.

Respectfully submitted.

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FEBRUARY, 1932.

APPENDIX

At the time the Revenue Act of 1924 was under consideration there was a surplus in the Treasury and there was, therefore, no need for the continuation of the high rates of the 1921 Act. Cf. H. R. 179, 68th Cong., 1st Sess., p. 1. Since it was believed that by the time the bill would become law returns for the year 1923 would have been filed and in many cases the taxes would have been paid, it was decided to remit 25 per cent of the taxes for that year and to lower the rates for subsequent years. This purpose was explained on the floor of the House by Representative Green, Chairman of the Committee on Ways and Means, as follows (Cong. Rec., Vol. 65, Part 3, pp. 2427–2428):

> The bill provides that on the taxes for the year 1923, to be paid during this calendar year of 1924, there shall be a reduction of 25 per cent.
>
> Of course, this flat reduction of 25 per cent is not scientific, but it is something that everyone can understand. Even the man who runs may read this provision and know exactly what it means. He knows he is going to get one-fourth off of his taxes for this year. The application of it will be made in the first instance by a reduction of 25 per cent in each one of the payments to be made. However, it is perfectly plain at this time that the bill will not be passed until after the first payment is due this year,

and perhaps not until after the second payment is due.

In answer to the question why the same rates should not be adopted for 1923 as those proposed for 1924, the Chairman stated (Cong. Rec., Vol. 65, Part 3, p. 2432):

> It would be absolutely impossible at this time when the bill can not be passed until after a number of parties have already paid their taxes and already made up their returns; and to put in force the system which is provided in the bill would produce utter chaos. There is only one way of getting at it, and that is the way suggested in the bill, by making a simple, flat reduction all the way through.

The Committee Reports of the House and Senate with reference to the credit are in identical language. They state in part (H. R. 179, 68th Cong., 1st Sess., p. 2; S. R. 398, 68th Cong., 1st Sess., p. 2):

> The bill provides for two forms of tax reduction:
>
> (1) Temporary and immediate relief to taxpayers by a 25 per cent reduction of the income tax payable in the year 1924 on 1923 taxable income. The estimated reduction resulting from this provision is as follows:

Fiscal year 1924	$128,010,000
Fiscal year 1925	104,740,000
Total reduction	232,750,000

> (2) Permanent relief by the revision of the revenue act of 1921 through the reduction of certain taxes and the repeal of others. * * *

The Senate Finance Committee Report also contains the following (S. R. 398, 68th Cong., 1st Sess., p. 48):

REDUCTION OF INCOME TAXES PAYABLE IN 1924

In accordance with the general scheme of tax reduction, Title XIII provides immediate relief for the taxpayers by allowing a 25 per cent reduction of the income tax payable in 1924 on 1923 taxable income.

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